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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,076	02/17/2004	Nick Semitka		9495

7590 03/12/2007  
Nick Semitka  
40783 Gridley Drive  
Antioch, IL 60002

EXAMINER

MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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3728

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/780,076

Applicant(s)

SEMITKA, NICK

Examiner

Jila M. Mohandesi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims 5 and 7 drawn to an invention nonelected without traverse in Paper filed 12/12/2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-3, 6 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, subparagraph (g) the phrase "whereby a securing means is selected from .....of said footwear" is indefinite and wrong. The securing means is not selected from a group consisting of a nut, rivet, pin screw and hook enabling fastening of said footwear, rather the fastening means is selected from a group consisting of a nut, rivet, pin screw and hook enabling fastening of said footwear, see page 5, lines 16-19 of the instant specification.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 and 6 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Shears (3,137,952). Shears '952 discloses a mountable securing device for fastening footwear, comprising: at least two opposing surfaces on said footwear, whereby each surface having a plurality of openings (lacing holes 2), said openings having a front and back surface; a pair of fastening assemblies having a housing member (nut member 6) and an engaging device (screw member 7); a base (stretchable strap 5) having at least two complementary openings to said footwear surface opening; said base having a securing means (buckles 8); said housing member adapted to complementary fit to the back of said footwear surface opening; and said engaging device adapted to complementary fit to said front surface of said footwear surface opening; whereby when said housing member engages said engaging device said securing means of said base is enabled fastening said footwear. See Figures 1-3 embodiments.

6. Claims 1-4, 6 and 8 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. (5,526,585). Brown '585 discloses a mountable securing device for fastening footwear, comprising: at least two opposing surfaces on said footwear, whereby each surface having a plurality of openings (eyelets C2), said openings having a front and back surface; a pair of fastening assemblies having a housing member (fastener structure 18) and an engaging device (peg-like structure 16); a base (buckle-like structure 14 with threaded hole, see column 4, lines 50-52) having at least two complementary openings to said footwear surface opening; said base having a securing means (strap-like substructure 30 & holder substructure 32); said housing member adapted to complementary fit to the back of said footwear surface opening; and

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said engaging device adapted to complementary fit to said front surface of said footwear surface opening; whereby when said housing member engages said engaging device said securing means of said base is enabled fastening said footwear. See Figures 1-7 embodiments.

With respect to claim 8, note the locking member (strap-like substructure 30) pivotally connected between said footwear surfaces.

### ***Response to Arguments***

7. Applicant's arguments filed 12/12/2007 have been fully considered but they are not persuasive. Contrary to applicant's argument the fastening means of Shears '952 and Brown '585 are selected from a group consisting of a nut, rivet, pin screw and hook enabling fastening of said footwear.

Just a reminder that when submitting amendments a complete listing of all the claims should be present and each claim should be identified with proper status identifier. See 37 CFR 1.121 or 1.4.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

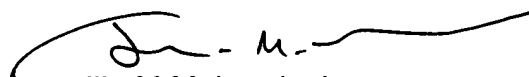
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
March 07, 2007